IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No. 8151 of 1996

Between:

D. Kotilingam, S/o Lingam,
aged about 30 years,

R/o Karempudi, Guntur District.

..... PETITIONER

AND

1 The Secretary to Government ,
Finance and Planning, Secretariat,
A.P., Hyderabad.
2 The Secretary, A.P. Social Welfare Residential

Education Society, Hyderabad.
3 The Chairman-cum-District Collector,
District Social Welfare Residential Education Society, Guntur.
4 The Principal,
A.P. Social Welfare Residential School, Karempudi,
Guntur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Mandamus to direct the respondents to regularise the service of the WP into last grade service by declaring that the WP is entitled to be regularised as per G.O.Ms.No.212, dt:22.4.94 without reference to any cut of date.

Counsel for the Petitioner: Mr. M.SUBBA REDDY

Counsel for Respondent No.1: G.P. FOR SCHOOL EDUCATION

Counsel for Respondents 2to4: Mr.VIJAYA BHASKAR MOOLA

The Court made the following :

ORAL ORDER:

This writ petition is filed seeking a Mandamus directing the respondents to regularize the services of the petitioner in the last grade service declaring that the petitioner is entitled to be considered for regularization as per G.O.Ms.No.212, Finance and Planning (FW.PC.III) Department, dated 22-4-1994.

It is the case of the petitioner that he is working as a Cook under the control of the respondents and he has completed eight years of service (as on the date of filing of the writ petition). While the matter stood thus, himself and others filed W.P.No.4112 of 1993 and this Court disposed of the same on 30-12-1993 directing the respondents to regularize their services. Since those directions were not complied with, they filed C.C.No.103 of 1995. However, the Contempt Case was closed in view of the fact that the proposals were sent to the 1st respondent for regularization of their services as per G.O.Ms.No.212, dated 22-4-1994. Though the 1st respondent, vide G.O.Ms.No.124, dated 22-11-1995 regularized the services of other petitioners in the said writ petition, his case was not considered. He had completed five years of service as on 22-4-1994, but the respondents have reckoned five years of service as on 25-11-1993 by misinterpreting the G.O. Hence, this writ petition.

A detailed counter affidavit has been filed on behalf of the respondents denying the

allegations made by the petitioner. It is asserted that the petitioner is working in A.P. Social Welfare Residential School, Karempudi on *ad hoc* basis since 3-2-1989 as cook. The length of service of the petitioner was 4 years, 9 months and 22 days as on 25-11-1993. Thus, the petitioner has not completed five years of service as on 25-11-1993, which is a pre-requisite condition as stipulated in G.O.Ms.No.212, dated 22-4-1994; therefore, he is not entitled for regularization of service.

Heard both sides and perused the entire material on record.

In the counter affidavit, except stating that the petitioner has not completed five years as on 25-11-1993, no other objection is taken by the respondents. Learned counsel for the petitioner asserts that the petitioner is still continuing in service as cook and as on date, the petitioner has put in more than 17 years of service. The Apex Court in **DISTRICT COLLECTOR/CHAIRMAN v. T. DEVENDERPAL SINGH** held that the continuous service of five years in G.O.Ms.No.212, dated 22-4-1994 is not upto the cut-off date of 25-11-1993, but continuous service of 5 years in the organization is enough. There is no necessity that the petitioner should have put in five years of service as on 25-11-1993. In view of the above, I am of the considered opinion that the petitioner is entitled to be considered for regularization of his services in the light of G.O.Ms.No.212, dated 22-4-1994, immediately after completion of five years of service. The respondents have not also raised any objection as to availability of vacancies etc.

In view of the above, the respondents are directed to consider the case of the petitioner for regularization of service from the date immediately after completion of five years of service from 3-2-1989, within a period of three months from the date of receipt of a copy of this order. Till such exercise is made, the petitioner shall be continued in the same post as held by him as on today.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

24-3-2005

prk

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday, Twenty Fourth day of March, Two thousand and Five.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary to Government,
Finance and Planning, Secretariat,
A.P., Hyderabad.
2 The Secretary, A.P. Social Welfare Residential

Education Society, Hyderabad.
3 The Chairman-cum-District Collector,
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